

REMARKS

I. OBJECTIONS TO CLAIMS

Claims 1, 2, and 42 has been amended to correct the spelling of “a” to “an.”

II. REJECTION UNDER 35 U.S.C §102

The Examiner rejected Claims 1, 2, 4, 6, 20-23, 25, and 40-42 for anticipation under 35 U.S.C. §102(e) based on the prior art reference U.S. Patent 6,728,526 to Basilier et. al (hereafter “the ‘526 Patent”). Under 35 U.S.C. §102, the prior art must disclose each and every claim element for an invention to be anticipated by prior art. *Constant v. Advanced Minor-Devices, Inc.*, 848 F. 2d 1560 (Fed. Cir. 1988). All claim limitations of the invention must also be considered in determining patentability. *Hewlett-Packard Co. v. Bausch & Lomb, Inc.*, 909 F. 2d 1464 (Fed. Cir. 1990). Almost is not enough; the prior art must disclose all the elements. *Connell v. Sears, Roebuck & Co.*, 722 F. 2d 1542 (Fed. Cir. 1983). Accordingly, the absence of any claimed element negates anticipation under 35 U.S.C. §102.

In a telephone conversation with the Examiner on January 28, 2005, the Examiner indicated that Claim 1 amended to include some of the limitations of Claims 4 and 5 would be novel, that Claim 19 amended with the limitations of Claim 1 would be novel, that Claim 22 amended with the limitation of Claim 24 would be novel, and that Claim 42 amended with the limitation of Claim 24 would be allowable. The independent Claims 1, 19, 22, and 42 have been amended as suggested by the Examiner to clearly distinguish the invention from the ‘526 Patent.

Accordingly, because all claim elements of the independent Claims 1, 19, 22, and 42 in the invention are not disclosed in the cited prior art, the Applicants respectfully request reconsideration of independent Claims 1, 19, 22, and 42 and the other dependent claims in light of these comments.

III. REJECTION UNDER 35 U.S.C §103

The Examiner rejected Claims 3, 14, 19, 33, 38, and 39 for obviousness under 35 U.S.C. §103(a) based on the ‘526 Patent prior art reference in view of “Official Notice.” Claims 5, 7–13, 15–18, 24, 26–32, and 34–37 were rejected for obviousness under 35 U.S.C. §103(a) based on the ‘526 Patent and U.S. Patent 6,466,977 to Sitaraman et al. Because the rejected claims contain all the limitations of the independent claims as amended, neither cited reference can support an obviousness rejection under §103 for the claims depending from Claims 1, 22, and 42. Therefore, it is respectfully suggested that the Examiner’s obviousness rejection based upon the cited prior art references is improper in light of the current amendments.

IV. CONCLUSION

The Applicants respectfully request reconsideration after final of the present application because the Examiner’s 35 U.S.C. §§ 102(e) and 103(a) rejections are believed to have been traversed by the present Response. Independent claims 1, 19, 22, and 42 as amended are believed allowable because the cited prior art fails to disclose, teach, or suggest all the claimed elements. Since the dependent claims add further limitations to the allowable independent claims, the Applicants believe the dependent

claims are likewise allowable. Accordingly, pending claims 1-42 are believed allowable because the claimed invention is not disclosed, taught, or suggested by the cited prior art.

It is believed that no additional fees are necessary for this filing. If additional fees are required for filing this response, then the appropriate fees should be deducted from D. Scott Hemingway's Deposit Account No. 501,270.

Respectfully submitted,



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